responsibility action immediately effective at the time a final decision is issued.

§ 171.42 Notice of a final decision of the National Futures Association in a member responsibility action.

(a) *When required.* The National Futures Association shall promptly serve all parties, as well as the Proceeding Clerk and Secretary of the Commission, with a written notice of any final decision in a member responsibility action. The notice may be contained in the written decision issued by the National Futures Association. If the National Futures Association determines that the decision shall be effective upon issuance, in addition to serving a written notice, it shall also contact the parties and the Proceedings Clerk by telephone to inform them of its determination.

(b) *Contents of the written notice.* At a minimum, the notice shall provide the following information:

(1) The name of the parties to the proceeding;

(2) The date the notice was served and the effective date of the decision;

(3) A statement informing the parties of their right to appeal the decision to the Commission pursuant to § 171.44 as well as their right to seek a stay of the decision pending Commission consideration of their appeal pursuant to § 171.43;

(4) A description of the action taken and the reasons for the action;

(5) Findings of fact and conclusions of law on all issues relevant to its decision;

(6) A determination of the appropriate relief based on the findings and conclusions.

§ 171.43 Petition for a stay of the effective date of a final decision of the National Futures Association in a member responsibility action.

(a) *Filing the petition.* Within ten days of the service of the notice described in § 171.42, any aggrived party may seek from the Commission a stay of the effective date of the decision of the National Futures Association pending consideration of the merits of an appeal by filing and serving an appropriate petition. The mere filing of such a petition shall not stay the effective date of the decision. The burden of persuasion shall rest with the party seeking the stay.

(b) *Contents.* A petition for a stay shall be in writing. Material factual allegations shall be supported by an affidavit or other sworn statement unless the parties stipulate that the material facts are not in dispute.

(c) *Response.* Within five days of the service of the petition, the National Futures Association may file an opposition to the petition. Material factual allegations shall be supported by an affidavit or other sworn statement unless the parties stipulate that the material facts are not in dispute.

(d) *Standards for determining petitions for a stay.* In reviewing petitions filed under this section, the Commission shall consider:

(1) The likelihood that petitioner's challenge to the merits of the decision will be successful; and

(2) The likelihood that the denial of the petition would result in irreparable harm to the petitioner; and

(3) The effect a grant of the petition would have on the National Futures Association; and

(4) The effect a grant or denial of the petition would have on the public interest.

(e) *Expedited consideration.* If the suspension, restriction or remedial action imposed by the National Futures Association in a member responsibility action is effective at the time a petition for a stay is filed with the Commission, the Commission shall not delay its decision on the petition to await the receipt of the National Futures Association's response. If the decision is not effective at the time the petition is filed, the Commission will not act upon the petition prior to the receipt of a response from the National Futures Association unless, in its view, expedited action on the petition is necessary to protect petitioner's right to a meaningful determination of the right to a stay. If the Commission grants the petition prior to the receipt of the response of the National Futures Association, the association may seek reconsideration of the Commission's action within seven days of service of the decision.